

FISCAL NOTE

Bill #: HB0729

Title: 4% tax on sale of prepared food

Primary Sponsor: Olson, B

Status: As Introduced

Sponsor signature	Date	David Ewer, Budget Director	Date
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Fiscal Summary

	<u>FY 2005 Difference</u>	<u>FY 2006 Difference</u>	<u>FY 2007 Difference</u>
Expenditures:			
General Fund	\$37,746	\$906,458	\$367,090
State Special Revenue	\$0	\$18,987,177	\$19,781,086
Revenue:			
General Fund	\$0	\$18,987,177	\$19,781,086
State Special Revenue	\$0	\$18,987,177	\$19,781,086
Net Impact on General Fund Balance:	(\$37,746)	\$18,080,719	\$19,413,996

<input checked="" type="checkbox"/> Significant Local Gov. Impact	<input checked="" type="checkbox"/> Technical Concerns
<input type="checkbox"/> Included in the Executive Budget	<input checked="" type="checkbox"/> Significant Long-Term Impacts
<input type="checkbox"/> Dedicated Revenue Form Attached	<input checked="" type="checkbox"/> Needs to be included in HB 2

Fiscal Analysis

ASSUMPTIONS:

Department of Revenue

1. Starting July 1, 2005, this bill would place a 4 percent sales tax on prepared foods. Section 3 of this bill defines "prepared foods" as those: sold by a retailer as meals; sold for consumption at tables, chairs, or counters; sold with tableware; or sold for immediate consumption. Excluded would be prepared food that is: delivered as part of a residential living arrangement; sold by or through vending machines; and alcoholic beverages.
2. A "retailer" of prepared food is defined in the bill as an establishment in the accommodations and food service sector, as defined by the North American Industrial Classification System, that sells prepared food. This excludes sales of prepared food by establishments in other sectors of the economy, such as retail sales or health care.
3. Taxable prepared food sales are estimated as \$982,380,827 in calendar year 2005, \$1,016,269,417 in 2006 and \$1,065,950,168 in 2007.
4. The tax would be collected for half of 2005. At a 4 percent rate, the tax would be \$19,647,617 in the second half of 2005 (.5 x 4% x \$982,380,827), \$40,650,777 in 2006 (4% x \$1,016,269,417), and \$42,638,007 in 2007 (4% x \$1,065,950,168).

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5. The tax would be collected by retailers and remitted to the Department of Revenue. Under 15-68-510, MCA, vendors are permitted to retain an allowance of 5 percent of the tax for administering the tax. Tax revenues after the allowance would be \$18,665,236 in 2005 (\$19,647,617 X .95), \$38,618,238 in 2006 (\$40,650,777 X .95) and \$40,506,107 in 2007 (\$42,638,007 X .95).
6. Estimated revenues from this bill in FY 2006 are net tax revenues (after the vendor allowance) from the second half of 2005 plus 50 percent of 2006 net tax revenues or \$37,974,355 (\$18,665,236 + \$38,618,238 X 50%). Estimated revenues in FY 2007 are 50 percent of CY 2006 net tax revenues plus 50 percent of CY 2007 net tax revenues or \$39,562,173 (\$38,618,238 X 50% + \$40,506,107 X 50%).
7. Half of all money collected would be deposited in the state general fund and half in a state special revenue account for distribution to the county or incorporated municipality in which the tax was collected. The Department of Revenue would be required to remit these collections within 30 days of receipt.
8. In FY 2005, the Department of Revenue would require 0.50 FTE. For FY 2005, costs total \$37,746 in order to meet the July 1, 2005 effective date of this legislation.
9. The Department of Revenue would require additional 7.50 FTE in FY 2006 and FY 2007 to administer this tax. Total administrative expenditures associated with these FTE as provided below are estimated as \$406,458 in FY 2006 and \$367,090 in FY 2007.
10. The Department of Revenue would also require modifications to existing information systems to implement this tax. If one thousand or more establishments are subject to this tax, estimated costs for modification are \$500,000 assuming stand-alone development. Cost savings could be achieved by developing this tax in conjunction with other tax types.

FISCAL IMPACT:

	FY 2005 <u>Difference</u>	FY 2006 <u>Difference</u>	FY 2007 <u>Difference</u>
FTE	0.50	7.50	7.50

Expenditures:

Personal Services	\$18,397	\$263,615	\$262,796
Operating Expenses	1,949	608,043	104,294
Equipment	17,400	34,800	0
Transfers	<u>0</u>	<u>18,987,177</u>	<u>19,781,086</u>
TOTAL	\$37,746	\$19,893,635	\$20,148,176

Funding of Expenditures:

General Fund (01)	\$37,746	\$906,458	\$367,090
State Special Revenue (02)	<u>0</u>	<u>18,987,177</u>	<u>19,781,086</u>
TOTAL	\$37,746	\$19,893,635	\$20,148,176

Revenues:

General Fund (01)	\$0	\$18,987,177	\$19,781,086
State Special Revenue (02)	\$0	\$18,987,177	\$19,781,086

Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$37,746)	\$18,080,719	\$19,413,996
State Special Revenue (02)	\$0	\$0	\$0

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EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

Half of collections would be transferred to local governments. They would receive \$18,987,177 in FY 2006 and \$19,781,086 in FY 2007. In FY 2006, local governments would be required to reduce property taxes by 25 percent of the anticipated receipts, or \$4,746,794. In FY 2007 and succeeding years, local governments would be required to reduce property taxes by 50 percent of receipts in the preceding fiscal year. In FY 2007, this would be \$9,493,589.

LONG-RANGE IMPACTS:

The revenue generated by this bill will grow over time as sales of prepared food grow.

TECHNICAL NOTES:

1. Over time, it may be difficult for local governments to demonstrate that they have reduced property taxes by the amount required in this bill. This would require a mechanism for tracking what property taxes would have been without revenue from this tax, particularly if local voters approve new levies.
2. This bill defines retailers who are required to collect the tax by reference to the North American Industrial Classification System (NAICS). The NAICS is periodically updated, and future updates could change the establishments required to collect the tax. Using this NAICS definition will also create some situations where one of two similar establishments will be required to collect the tax and the other will not. For example, a stand-alone restaurant in a mall would be required to collect the tax while a restaurant that is part of a department store next door would not. Defining “retailer” in the bill would eliminate these problems.